A

HARCHARAN SINGH PIARA SINGH

v.

PP

B

FEDERAL COURT, PUTRAJAYA
ALAUDDIN MOHD SHERIFF PCA
RICHARD MALANJUM CJ (SABAH & SARAWAK)
HASHIM YUSOF FCJ
ABDULL HAMID EMBONG FCJ
C HASSAN LAH JCA
[CRIMINAL APPLICATION NO: 05-22-2004(B)]
15 JUNE 2011

D ***JURISDICTION:*** *Federal Court - Inherent powers - Power to review own decision - Whether there was any injustice or abuse of process of court - Whether issues arose to be considered for the exercise of the inherent power of court - Rules of the Federal Court 1995, r. 137*

E ***CIVIL PROCEDURE:*** *Judgments - Grounds of judgment - Grounds of judgment delivered in English language - Whether grounds of judgment fall within s. 8 of the National Language Act 1963 - Whether court has wide discretion to conduct proceedings in English language - Whether there was injustice or prejudice caused to applicant - Federal Constitution, art. 152*

F The applicant was charged with murder, an offence under s. 302 of the Penal Code. The applicant was found guilty and was convicted and sentenced to death by the High Court, which was subsequently affirmed by the Federal Court. The applicant did not challenge the decision of the courts from the merit of evidential
G aspect but applied to this court under r. 137 ('the rule') of the Rules of the Federal Court 1995 ('the RFC') asserting that it had the jurisdiction to review its own decisions. The applicant submitted that injustice had occasioned against the applicant and as such the rule should be invoked. The basis for such contention
H was that this court and the courts below failed to adhere to s. 8 of the National Language Act 1963 ('the Act') when they delivered their respective judgments. The applicant submitted that the combined effect of art. 152 of the Federal Constitution and s. 8 of the Act requires all proceedings to be in the national
I language and as such all the judgments given by the respective courts were null, void and of no legal effect. As such, the applicant urged this court to invoke its power under the rule or

its inherent power in order to correct the alleged injustice on the ground that the judgments were a nullity and consequently the conviction and sentence passed against the applicant should be set aside.

Held (dismissing the application)
Per Richard Malanjum CJ (Sabah & Sarawak) delivering the judgment of the court:

(1) Rule 137 of the RFC declares the obvious that is the inherent power of this court being the apex court of this country is 'to prevent injustice or to prevent an abuse of the process of the court'. But the rule does not create or provide additional power or new jurisdiction to this court. Such must be the legal position as there should be finality in any decision of this court. (para 16)

(2) A court of final instance must be equipped with residual jurisdiction to rehear and reopen its own earlier decision in a fit and proper case. In exercising such power this court must be extremely cautious and to do so only in rare and exceptional cases. Each application must be scrutinised carefully and thoroughly to determine if indeed there was any issue to be considered under the rule or for the exercise of the inherent power of the court. (para 19)

(3) The grounds of judgment herein did not fall within s. 8 of the Act (*Dato' Seri Anwar Ibrahim v. Tun Dr Mahathir)*. The court has a wide discretion whether to conduct proceedings in the English language or in the national language, be it on the courts own motion or on application by the parties. Further, judges have the discretion to provide their grounds of judgment in either the national language or the English language. The choice of language adopted by the respective judge is not open for challenge as long as it is in the national language or the English language. (para 30)

(4) There was no injustice or prejudice whatsoever caused to the applicant by reason of the English written grounds of judgments. In the absence of any injustice or an abuse of the process of the court, this court must decline to invoke the rule or exercise its inherent jurisdiction. Although this court has the inherent jurisdiction to rehear its own decision by an earlier panel in certain limited circumstances, the present case did not warrant this court to invoke the same. (paras 31 & 32)

A ***Bahasa Malaysia*** *Translation Of Headnotes*

Pemohon telah dituduh atas kesalahan pembunuhan di bawah s. 302 Kanun Keseksaan. Pemohon didapati bersalah, disabit dan dihukum mati oleh Mahkamah Tinggi dan keputusan itu disahkan
B oleh Mahkamah Persekutuan. Pemohon tidak mencabar keputusan mahkamah-mahkamah dari segi merit aspek jelas tetapi memohon mahkamah ini di bawah k. 137 Kaedah-Kaedah Mahkamah Persekutuan 1995 ('KMP') dengan menegaskan ia mempunyai bidangkuasa bagi menyemak semula keputusannya sendiri. Pemohon
C berhujah bahawa ketidakadilan terjadi terhadap pemohon dan oleh itu k. 137 seharusnya digunakan. Dasar untuk hujahan sedemikian adalah mahkamah ini dan mahkamah-mahkamah di bawah gagal mematuhi s. 8 Akta Bahasa Kebangsaan 1963 ('Akta') apabila mereka menyampaikan penghakiman masing-masing. Pemohon
D berhujah bahawa akibat penggabungan perkara 152 Perlembagaan Persekutuan dan s. 8 Akta, semua prosiding seharusnya dalam bahasa kebangsaan dan oleh itu semua penghakiman-penghakiman yang diturunkan oleh mahkamah-mahkamah masing-masing adalah batal, tak sah dan tidak mempunyai kesan di sisi undang-undang.
E Oleh itu, pemohon meminta mahkamah ini menggunapakai kuasanya di bawah kaedah atau kuasa sedia ada untuk memperbetulkan ketidakadilan yang didakwa berlaku atas alasan bahawa penghakiman-penghakiman merupakan suatu pembatalan dan dengan itu sabitan dan hukuman yang dijatuhkan terhadap
F pemohon seharusnya diketepikan.

Diputuskan (menolak permohonan)
Oleh Richard Malanjum HB (Sabah & Sarawak) menyampaikan penghakiman mahkamah:

G **(1)** Kaedah 137 KMP mengisytiharkan apa yang sudah jelas iaitu kuasa sedia ada mahkamah ini sebagai mahkamah tertinggi adalah untuk 'mencegah ketidakadilan atau untuk menghalang suatu penyalahgunaan proses mahkamah'. Tetapi kaedah tidak mencipta atau menyediakan kuasa tambahan atau bidangkuasa
H baru bagi mahkamah ini. Itu adalah kedudukan rasmi kerana sebarang keputusan mahkamah ini harus mempunyai kemuktamadan.

(2) Mahkamah terakhir harus dilengkapi dengan bidangkuasa sisa
I untuk mendengar dan membuka semula keputusan terdahulunya sendiri dalam kes yang wajar dan sesuai. Dalam melaksanakan kuasa itu mahkamah ini mesti berhati-hati dan

hanya bertindak sedemikian dalam kes-kes yang terhad dan luar biasa. Setiap permohonan harus diteliti dengan hati-hati dan betul untuk menentukan sama ada wujudnya isu yang perlu dipertimbangkan di bawah kaedah atau untuk pelaksanaan kuasa sedia ada mahkamah.

(3) Alasan-alasan penghakiman di sini tidak terjatuh di bawah s. 8 Akta *(Dato' Seri Anwar Ibrahim v. Tun Dr Mahathir)* Mahkamah mempunyai budibicara luas sama ada untuk menjalankan prosiding-prosiding dalam Bahasa Inggeris atau dalam bahasa kebangsaan, sama ada atas usul mahkamah sendiri atau atas permohonan pihak-pihak. Seterusnya, hakim-hakim mempunyai budibicara untuk menyediakan alasan penghakiman mereka sama ada dalam bahasa kebangsaan atau Bahasa Inggeris. Pilihan bahasa yang digunakan oleh hakim tertentu tidak boleh dicabar selagi ia dalam bahasa kebangsaan atau Bahasa Inggeris.

(4) Tiada ketidakadilan atau prejudis yang dialami pemohon oleh kerana alasan-alasan penghakiman ditulis dalam Bahasa Inggeris. Tanpa kehadiran apa-apa ketidakadilan atau penyalahgunaan proses mahkamah, mahkamah ini menolak penggunaan kaedah atau pelaksanaan bidangkuasa sedia adanya. Walaupun mahkamah ini mempunyai bidangkuasa sedia ada untuk mendengar semula keputusannya sendiri oleh panel terdahulu dalam keadaan terhad tertentu, kes ini tidak mewajarkan mahkamah ini menggunapakainya.

Case(s) referred to:

Allied Capital Sdn Bhd v. Mohd Latiff Shah Mohd & Another Application [2004] 4 CLJ 350 FC ***(refd)***

Adorna Properties Sdn Bhd v. Kobchai Sosothikul [2005] 1 CLJ 565 FC ***(refd)***

Asean Security Paper Mills Sdn Bhd v. Mitsui Sumitomo Insurance (Malaysia) Bhd [2008] 6 CLJ 1 FC ***(refd)***

Badan Peguam Malaysia v. Kerajaan Malaysia [2009] 1 CLJ 833 FC ***(refd)***

Chu Tak Fai v. PP [2006] 4 CLJ 931 FC ***(refd)***

Dato' Seri Anwar Ibrahim v. PP [2010] 7 CLJ 397 FC ***(refd)***

Dato' Seri Anwar Ibrahim v. Tun Dr Mahathir Mohamad [2011] 1 CLJ 1 FC ***(refd)***

Lim Lek Yan v. Yayasan Melaka [2009] 4 CLJ 665 FC ***(refd)***

Ong Thye Peng v. Loo Choo Teng & Ors [2009] 4 CLJ 515 FC ***(refd)***

PP v. Abdullah Idris [2009] 5 CLJ 445 CA ***(refd)***

A *PP v. Denish Madhavan [2010] 5 CLJ 635 FC* ***(refd)***
Raja Petra Raja Kamarudin v. Menteri Dalam Negeri [2010] 4 CLJ 25 FC ***(refd)***
Ramanathan Chelliah v. PP [2009] 6 CLJ 55 CA ***(refd)***
Re Uddin [2005] 3 All ER 550 ***(refd)***
B *Sabah Forest Industries Sdn Bhd v. UNP Plywood Sdn Bhd [2010] 3 CLJ 779 FC* ***(refd)***
Taylor v. Lawrence [2002] 2 All ER 353 ***(refd)***
UOL Credit Sdn Bhd v. Dato' Vijay Kumar Natarajan [2010] 1 CLJ 557 FC ***(refd)***

C **Legislation referred to:**
Courts of Judicature Act 1964, s. 87
Federal Constitution, art. 152
National Language Act 1963, s. 8
Penal Code, ss. 34, 302
Rules of the Federal Court 1995, r. 137

D *For the applicant - Karpal Singh (Sangeet Kaur Deo with him); M/s Karpal Singh & Co*
For the respondent - Ahmad Bache DPP; AG's Chambers

Reported by Suhainah Wahiduddin
E

JUDGMENT

Richard Malanjum CJ (Sabah & Sarawak):
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[1] On 10 February 2011 we heard the application by the applicant under encl. (19 [a]). After hearing the respective submissions of learned counsel for the parties, we dismissed the application. We indicated that we would give our reasons. We do
G so now.

[2] Briefly put, the applicant applied under r. 137 ('the rule') of the Rules of the Federal Court 1995 ('the RFC') asserting that this court has the jurisdiction to review its own decisions pursuant
H to the rule or its inherent powers.

[3] Learned counsel for the applicant submitted that injustice had occasioned against the applicant and as such the rule should be invoked. The basis for such contention is that this court and the courts below failed to adhere to s. 8 of the National Language
I Act 1963 ('the Act') when they delivered their respective judgments.

[4] As such, learned counsel urged this court to invoke its power under the rule or its inherent power in order to correct the alleged injustice on the ground that the judgments were a nullity and consequently the conviction and sentence passed against the applicant should be set aside.

[5] We do not propose to regurgitate herein the facts and evidence as found during the trial of the applicant. It would suffice to state that the applicant together with another were charged for the murder of one Shaik Abdul Rub Samdani Siddiqi on 1st March 1996 at a house no. 306, Taman Desa Aman, Sungai Buloh, Selangor, an offence under s. 302 of the Penal Code and in this case the said section was read with s. 34 of the same Code.

[6] At the end of the prosecution case, the other accused was discharged and acquitted. He had since left the country, thereby making any appeal against the decision of the trial court illusory. But the defence of the applicant was called. At the end of the defence, the applicant was found guilty as charged, convicted and sentenced to death by the High Court on 15 November 2000.

[7] On appeal he was acquitted and discharged by the Court of Appeal on 12 August 2004. However the prosecution's appeal to this court was allowed on 9 September 2009 and the conviction and sentence imposed upon him by the High Court restored.

[8] It is to be noted that in his application before us the applicant did not challenge the decisions of the courts from the merit or evidential aspect. As indicated above it was solely on the allegation of failure by the courts to comply with s. 8 of the Act.

[9] At the outset of the hearing, the learned Deputy Public Prosecutor ('DPP') raised to submit his preliminary objection. We heard it and allowed learned counsel for the applicant to reply.

[10] Basically the learned DPP contended that the law relating to the rule had been settled in that this court had no jurisdiction to hear the application and even if it had the application did not meet the prerequisites of the rule. He further added that s. 8 of the Act had also been settled by this court in its earlier decision. In this case learned DPP argued that such failure by the courts to comply with s. 8 of the Act did not nullify the conviction and sentence passed against the applicant.

[11] Meanwhile learned counsel for the applicant strenuously urged us to make a clear determination on the current position of the rule in view of the recent decisions of this court as well as the Court of Appeal on their lack of power or jurisdiction to review their own decisions related to the same cases despite earlier judicial pronouncements. According to him these recent judgments had caused uncertainty and confusion in the law.

[12] Learned counsel also added that as to s. 8 of the Act this court in its earlier judgment did not consider or make it clear on the application of the proviso of the section.

[13] The rule states:

> Inherent powers of the Court.
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> For the removal of doubts it is hereby declared that nothing in these Rules shall be deemed to limit or affect the inherent powers of the Court to hear any application or to make any order as may be necessary to prevent injustice or to prevent an abuse of the process of the Court.

[14] In *Ong Thye Peng v. Loo Choo Teng & Ors* [2009] 4 CLJ 515 this is what Zulkefli FCJ had to say about the rule at pp. 523-525:

> It must be noted at the outset that r. 137 of the RFC does not actually confer jurisdiction on the Federal Court to hear any application or to make any order to prevent injustice or abuse of the process of the court. Rule 137 cannot be construed as conferring upon the Federal Court unlimited power to review its earlier decision for whatever purpose. The court only has the limited 'inherent' power or 'inherent jurisdiction' in order to maintain its character as a court of justice. His Lordship Zaki Tun Azmi PCA (as he then was) in the case of *Asean Security Paper Mills Sdn Bhd v. Mitsui Sumitomo Insurance (Malaysia) Bhd* [2008] 5 AMR 377 has succinctly laid out the limited or exceptional circumstances where the court has exercised its discretion to invoke r 137 at pp 15-16 as follows:
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> (a) That there was a lack of quorum eg the court was not duly constituted as two of the three presiding judges had retired (*Chia Yan Tek & Anor v. Ng Swee Kiat & Anor* [2001] 4 CLJ 61.
>
> (b) The applicant had been denied the right to have his appeal heard on merits by the appellate court (*Megat Najmuddin bin Dato Seri (Dr) Megat Khas v. Bank Bumiputra (M) Bhd* [2002] 1 CLJ 645).

(c) Where the decision had been obtained by fraud or suppression of material evidence (*MGG Pillai v. Tan Sri Dato' Vincent Tan Chee Yioun* [2002] 3 CLJ 577). A

(d) Where the court making the decision was not properly constituted, was illegal or was lacking jurisdiction, but the lack of jurisdiction is not confined to the standing of the quorum that rendered the impugned decision (*Allied Capital Sdn Bhd v. Mohd Latiff bin Shah Mohd & Another Application* [2004] 4 CLJ 350). B

(e) Clear infringement of the law (*Adorna Properties Sdn Bhd v. Kobchai Sosothikul* [2005] 1 CLJ 565). C

(f) It does not apply where the findings of this court is questioned, whether in law or on the facts (since these are matters of opinion which this court may disagree with its earlier panel). (*Chan Yock Cher @ Chan Yock Kher v. Chan Teong Peng* [2005] 4 CLJ 29). D

(g) Where an applicant under r. 137 has not been heard by this court and yet through no fault of his, an order was inadvertently made as if he had been heard (*Raja Prithwi Chand v. Sukhraj Rai* AIR 1941 FC 1). E

(h) Where bias had been established (*Taylor & Anor v. Lawrence & Anor* [2002] 2 All ER 353).

(i) Where it is demonstrated that the integrity of its earlier decision had been critically undermined eg where the process had been corrupted and a wrong result might have been arrived at (*Re Uddin* [2005] 3 All ER 550). F

(j) Where the Federal Court allows an appeal which should have been consequentially dismissed because it accepted the concurrent findings of the High Court and Court of Appeal (*Joceline Tan Poh Choo & Ors v V Muthusamy* [2007] 6 MLJ 485; [2007] 5 AMR 725). G

[15] Similar view was expressed by Heliliah Mohd Yusof FCJ in *Dato' Seri Anwar Ibrahim v. PP* [2010] 7 CLJ 397 at p. 488: H

> The rule itself is been framed as a deeming provision. The words '... nothing shall be deemed to limit or affect' means also nothing in the rules shall be regarded as limiting or affecting the inherent powers of the court. The 'Court' of course is a reference to the Federal Court. The SG seems troubled by the source of the power. Is the deeming provision a legal fiction or statutory hypothesis? The term 'inherent powers' refers to the judicial I

A powers of the Federal Court itself. 'Inherent' means it is intrinsic or organic to the judicial powers of the Federal Court and hence being so the Federal Court draws upon it in the limited circumstances prescribed in r. 137 namely to address injustice or abuse of processes. A certain reserve of powers intrinsically remains with the court for the simple reason that the Federal Court is created by the constitution as a judicial organ at the apex of the judiciary. Hence by virtue of being at the apex it is only the Federal Court (and no other non judicial branch) that has to be the organ to deal with 'injustice' or 'abuse of processes'. It is in that limited sense that the jurisdiction itself stems from the inherent powers, for the powers being intrinsic and organic to the judicial powers of the Federal Court, those powers may therefore be drawn upon as and when circumstances require. It therefore constitutes a separate exercise and more of a rectifying process. The exercise of that inherent power will only be triggered by an application made to it, upon which the court could said to become seized of it. In that sense it could be said to exercise an inherent jurisdiction.

[16] Simply put, the rule is nothing more than to declare the obvious that is the inherent power of this court being the apex court of this country 'to prevent injustice or to prevent an abuse of the process of the court'. A court of final instance must be equipped with residual jurisdiction to rehear and reopen its own earlier decision in a fit and proper case. (See: *Taylor v. Lawrence* [2002] 2 All ER 353, and *Re Uddin* [2005] 3 All ER 550). But the rule does not create or provide additional power or new jurisdiction to this court. (See: *Asean Security Paper Mills Sdn Bhd v. Mitsui Sumitomo Insurance (Malaysia) Bhd* [2008] 6 CLJ 1). Such must be the legal position as there should be finality in any decision of this court. (See: *Allied Capital Sdn Bhd v. Mohd Latiff Shah Mohd & Another Application* [2004] 4 CLJ 350; *Adorna Properties Sdn Bhd v. Kobchai Sosothikul* [2005] 1 CLJ 565; *PP v. Denish Madhavan* [2010] 5 CLJ 635).

[17] Accordingly, where the Court of Appeal is the apex court of any particular case in view of s. 87 of the Courts of Judicature Act 1964 ('CJA') then it is also clothed with such inherent power. (See: *Ramanathan Chelliah v. PP* [2009] 6 CLJ 55). And if the High Court is similarly positioned it too has the inherent power. (See: *PP v. Abdullah Idris* [2009] 5 CLJ 445).

[18] With respect we are not inclined to agree with some of the earlier views expressed in some judgments of this court and those of the Court of Appeal on the futility of the rule. In our considered view it has its function in view of its declaratory effect. A

[19] Having said the above we hasten to add that in exercising such power this court must be extremely cautious and to do so only in rare and exceptional cases. (See: *Raja Petra Raja Kamarudin v. Menteri Dalam Negeri* [2010] 4 CLJ 25; *Lim Lek Yan v. Yayasan Melaka* [2009] 4 CLJ 665 and *Chu Tak Fai v. PP* [2006] 4 CLJ 931). Each application must be scrutinized carefully and thoroughly to determine if indeed there is any issue to be considered under the rule or for the exercise of the inherent power of the court. (See: *Sabah Forest Industries Sdn Bhd v. UNP Plywood Sdn Bhd* [2010] 3 CLJ 779). B C

[20] In some of the earlier decisions of this court instances were mentioned when the rule or inherent power could be exercised. However, it should be noted that they were merely examples of instances as the list of instances is not exhaustive. (See: *Asean Security Paper Mills Sdn Bhd v. Mitsui Sumitomo Insurance (Malaysia) Bhd [supra]*; *Badan Peguam Malaysia v. Kerajaan Malaysia* [2009] 1 CLJ 833; *UOL Credit Sdn Bhd v. Dato' Vijay Kumar Natarajan* [2010] 1 CLJ 557). D E

[21] The next issue concerns s. 8 of the Act. Learned counsel for the applicant also referred to art. 152 of the Federal Constitution ('FC') in relation thereto. F

[22] Basically the issue is whether the three impugned judgments of this court and the courts below respectively which concerned the applicant have complied with s. 8 of the Act. G

[23] Section 8 reads:

> Language of Courts.
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> All proceedings (other than the giving of evidence by a witness) in the Federal Court, the Court of Appeal, the High Court or any Subordinate Court shall be in the national language: H
>
> > Provided that the Court may either of its own motion or on the application of any party to any proceedings and after considering the interests of justice in those proceedings, order that the proceedings (other than the giving of evidence by a witness) shall be partly in the national language and partly in the English language. I

[24] Article 152 states:

> 152. National language
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> (1) The national language shall be the Malay language and shall be in such script as Parliament may by law provide:
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> Provided that -
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> (a) No person shall be prohibited or prevented from using (otherwise than for official purposes), or from teaching or learning, any other language; and
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> (b) Nothing in this Clause shall prejudice the right of the Federal Government or of any State Government to preserve and sustain the use and study of the language of any other community in the Federation.
>
> ...
>
> (4) Notwithstanding the provisions of Clause (1), for a period of ten years after Merdeka Day, and thereafter until Parliament otherwise provides, all proceedings in the Federal Court, the Court of Appeal or a High Court shall be in the English language:
>
> Provided that, if the Court and counsel on both sides agree, evidence taken in language spoken by the witness need not be translated into or recorded in English.
>
> (5) Notwithstanding the provisions of Clause (1), until Parliament otherwise provides, all proceedings in subordinate courts, other than the taking of evidence, shall be in the English language.

[25] Learned counsel for the applicant submitted that the combined effect of art. 152 of FC and s. 8 of the Act requires all proceedings to be in the national language and as such all the three judgments rendered by the respective courts are null, void and of no legal effect. It was also argued that this court in *Dato' Seri Anwar Ibrahim v. Tun Dr Mahathir Mohamad* [2011] 1 CLJ 1 did not fully address the provision of s. 8 in particular the phrase 'either of its own motion or on the application of any party to any proceedings'.

[26] In response, the learned DPP replied that the issue has already been settled by this court in the same case.

[27] We have read the judgment of this court in that case and with respect we have no reason to dissent. We concur with the rationales expressed in the judgment.

[28] Section 8 of the Act makes reference to "all proceedings". Granted that "proceedings" do include judgments, however, judgment in this sense ought to be taken as the pronouncement of an order. It does not include grounds for the judgment. Even if it does, the grounds of judgments in the English language would still be saved by the proviso to s. 8 for the courts have a wide discretion as to the use of the English language in court.

[29] It must be stated here that the courts have always acknowledged the importance of the national language despite having the discretion to proceed in the English language. This was also stated in *Dato' Seri Anwar Ibrahim v. Tun Dr Mahathir (supra)* in the following words:

> [22] Finally, we wish to emphasize that the courts have always recognized the importance of the national language. (See *Zainun Dahlan v. Rakyat Merchant Bankers Bhd & Anor* [1997] 4 CLJ Supp 279.
>
> [23] And as early as 1990, the Chief Judge of Malaya, Hashim Yeop A. Sani in the Chief Judge of Malaya's Circular No. 3 of 1990 dated 25 June 1990, directs that all Judges and Judicial Commissioners of the High Court of Malaya and Sessions Court Judges and Magistrates to submit to him at least one grounds of judgment in the national language in each month in order to identify the problem arising out of the implementation of the use of the national language in courts. This circular further reinforces our view that, judges indeed have a discretion to deliver their grounds of judgment either in the national language or the English language.

[30] Accordingly, on the authority of *Dato' Seri Anwar Ibrahim v. Tun Dr Mahathir (supra)*, which we accept as good law, we hold that grounds of judgments do not fall within s. 8 of the Act, and the court has a wide discretion whether to conduct proceedings in the English language or in the national language, be it on the courts own motion or on application by the parties. Further, judges have the discretion to provide their grounds of judgment in either the national language or the English language. The choice of language adopted by the respective judge is not open for challenge as long as it is in the national language or the English language.

A **[31]** In any event, there has been no injustice or prejudice whatsoever caused to the applicant by reason of the English written grounds of judgments. In the absence of any injustice or an abuse of the process of the court, this court must decline to invoke the rule or exercise its inherent jurisdiction. (See: *Sabah* B *Forest Industries Sdn Bhd v. UNP Plywood Sdn Bhd* [2010] 3 CLJ 779).

[32] For the foregoing reasons we dismissed this application. As we have stated, although this court has the inherent jurisdiction C to rehear its own decision by an earlier panel in certain limited circumstances, we find that the present case does not warrant this court to invoke the same.

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